

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Open Network Architecture Tariffs
of Bell Operating Companies

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) CC Docket No. 92-91
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OPPOSITION TO DIRECT CASES

MCI TELECOMMUNICATIONS CORPORATION

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TABLE OF CONTENTS

I.	Introduction.	1
II.	MCI Opposition To Direct Cases	2
1.	Is the development of unit investment for BSEs on the basis of the (short (run) marginal investment option of SCIS or SCM a reasonable method that is consistent with the Commission's ONA requirements and policies?	4
2. and 4.	Have carriers selected model offices that are representatives of offices that will be used to provide BSEs? More specifically, should 1ESS and/or 1AESS switch costs be included in the development of BSE rates?	13
5.	Are the Bell South and US West overhead loadings excessive?	21
6.	Have carriers adequately justified their use of nonuniform overhead loadings in pricing BSEs?	25
7.	Are differences between BSE rates and unit cost differences justified?	26
III.	MCI's Non-Public Evaluation Of The BOC Costing Process.	26
IV.	Conclusion	34

SUMMARY

In this Opposition to the Direct Cases filed by the BOCs on May 18, 1992, MCI discusses the BOCs' responses to each of six questions designated by the Commission for investigation.

MCI shows that, contrary to the positions of BellSouth and Southwestern Bell, the average option of SCIS is the proper cost method to use in estimating the long run incremental cost of switched services. Only when this option is used in estimating costs is there assurance that all of the costs of the switch will be recovered by services using the switch in an equitable and nondiscriminatory manner. All of the BOCs except for Southwestern Bell and BellSouth used the proper average option in SCIS in estimating costs, and the use of the marginal option of SCIS by these two carriers not only is economically incorrect, it creates the potential for discrimination in the rates for switched services.

The BOCs varied widely in their selection of central offices for use in the analysis of BSE costs, as well as their decision to either include or exclude analog switching equipment from the analysis. If the Commission accepts the cost support presented by the various BOCs, it will effectively have granted the BOCs the widest possible latitude in making assumptions and using methodologies that are fundamental to the cost studies performed

and the results obtained. Such latitude provides the BOCs a costing and ratemaking flexibility that can easily be used to thwart the Commission's ONA objectives.

Variances in the use of overhead loadings by various BOCs again point out the wide latitude which the BOCs have been given in developing individual costing methodologies. Due to the variety of methodologies used, the costs for the same service may vary among BOCs by as much as 1,000 percent. The use of overhead loadings may render the actual direct costs measured virtually meaningless. Under the current regulatory scheme, the LECs have the flexibility to ensure that less competitive services will proportionately contribute the greatest amount of overhead.

The pricing by NYNEX of its three-way calling service well in excess of its unit cost for the service is not justified by its unsubstantiated claim that setting a lower price for the service would encourage arbitrage. No support is offered by NYNEX for its claim that arbitrage would occur, and, even if support were offered, it is clear that the Commission has the exclusive jurisdiction to regulate the rates, terms, and conditions of interstate communications services.

MCI participated fully in the non-public portion of this proceeding in an attempt to determine the validity of the BOCs' costing process and the automated cost models used by the BOCs in

estimating unit investment associated with the services at issue in this proceeding. MCI and other intervenors were frustrated in this effort by the severe redactions of the model and its supporting documentation forced by BOCs and Bellcore claims of confidentiality. The extent of redaction of this material went far beyond that necessary to protect BOC, Bellcore, or switch vendor proprietary information, and had the effect of rendering the material useless for any meaningful evaluation of the costing process. Based on the material which MCI was able to review and the report of the independent auditor, however, it is clear that, whatever the internal validity of the SCIS or SCM models, the costing process gives the BOC substantial latitude over the output of the model, by choices made by the cost analyst in providing inputs to the model.

If the Commission approves the rates proposed by the BOCs, it will be granting the BOCs substantial flexibility to pick and choose among methodologies and assumptions as needed in order to ensure that cost results are consistent with marketing plans. Because of the virtually unlimited pricing flexibility that results, the Commission will effectively have abdicated regulation of access services used for the provision of enhanced services.

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OPPOSITION TO DIRECT CASES

MCI Telecommunications Corporation (MCI), by its undersigned attorneys, hereby submits this Opposition to the Direct Cases filed by the BOCs on May 18, 1992, in the above-captioned proceeding. In this Opposition, MCI discusses the BOCs' responses to each of six questions designated by the Commission for investigation.

I. INTRODUCTION

In its Order Designating Issues for Investigation, dated April 14, 1992, the Commission designated certain issues associated with the filing of the Bell Operating Companies (BOCs') tariffs for certain Open Network Architecture (ONA) services. In a separate Order,^{1/} the Commission established procedures by which interested parties could examine a redacted version of the Switching Cost Information System (SCIS) and Switch Cost Model (SCM) automated cost models used by the BOCs in estimating the unit investment associated with various ONA

^{1/} Commission Requirements for Cost Support Material to be Filed with Open Network Architecture Access Tariffs, 7 FCC Rcd 1526 (Com. Car. Bur. 1992) (SCIS Disclosure Order).

service, and designated an independent auditor to examine an unredacted version of the models.

MCI's opposition to the use of proprietary cost models in the development of BOC ONA tariffs is a matter of record before the Commission. Shortly after the tariffs were submitted, MCI requested that each of the BOCs provide access to the models and expressed its willingness to execute a mutually satisfactory non-disclosure agreement. These efforts were unavailing. When the Commission issued the SCIS Disclosure Order, MCI protested the unreasonable restrictions that order imposed on ratepayers' participation in this proceeding. MCI's Application for Review of the SCIS Disclosure Order, seeking relief from several of the more onerous restrictions, remains pending before the Commission.

In order to save itself possibly needless effort, the Commission ought to consider MCI's Application for Review immediately, since the grave due process problems created by the obstacles to MCI's full participation will require reversal of almost any order on the ONA tariffs that reject any of MCI's arguments herein.

In this Opposition, MCI discusses, to the extent possible, the Direct Cases submitted by the BOCs in response to the issues

designated by the Commission for investigation.^{2/} It is clear that the Commission's decision to permit the BOCs to each develop an independent method for estimating costs has permitted each BOC substantial latitude in choosing assumptions and methodologies to manipulate the results of what should be an objective determination of the costs of ONA services. This flexibility grants the BOCs the ability to price ONA services to meet strategic pricing objectives, and to thwart the Commission's ONA objectives of ensuring nondiscriminatory access to unbundled network functionalities by enhanced and basic telecommunications service providers.

II. MCI OPPOSITION TO DIRECT CASES

As MCI will demonstrate below, the BOC Direct Cases have failed to justify the tariffed BSE rates. The Direct Cases fall short in several respects. First, the wide latitude available to the BOCs in choosing assumptions and values used as inputs in the SCIS models assures that the resulting direct costs for services will be virtually meaningless. Second, the freedom provided to the BOCs in choosing BSE overhead loading serves only to magnify the effects of the wide variations in direct costs which flow

^{2/} MCI files this opposition in response to the Direct Cases filed by the Ameritech Operating Companies (Ameritech), Bell Atlantic Telephone Companies (Bell Atlantic), BellSouth Telephone Companies (BellSouth), New York Telephone Company and New England Telephone and Telegraph Company (NYNEX), Pacific Bell (Pacific), Nevada Bell, Southwestern Bell Telephone Company (Southwestern Bell), and US West Communications, Inc. (US West).

from the latitude available to SCIS users. Finally, the additional flexibility inherent in price caps suggests that the pricing of BSEs is more a function of the marketing goals of the BOC than the output of an objective cost model.

1. Is the development of unit investment for BSEs on the basis of the (short run) marginal investment option of SCIS or SCM a reasonable method that is consistent with the Commission's ONA requirements and policies?

As Southwestern Bell and BellSouth were the only carriers to use the marginal investment option of SCIS in determining the investment associated with BSEs, only those two carriers were directed to respond. In addition, Southwestern Bell and BellSouth were directed to provide in their direct cases alternative BSE rates which reflect use of the average basis assumption within the SCIS model.

In their responses, both Southwestern Bell and BellSouth disputed that the marginal option of SCIS produces short-run investments. Southwestern Bell characterized the average version of SCIS as an "allocated investment which is not economically meaningful in developing long run economic cost of a service" and claimed that the marginal version of SCIS identifies the "investment directly used by a given service."^{3/} BellSouth provided an extensive discussion of the differences between the

^{3/} Direct Case of Southwestern Bell at 1-2.

marginal and average options of SCIS, and characterized the average option of SCIS as producing a "revenue requirement" type of cost. According to BellSouth, incremental costs "reflect those costs which will be incurred by a firm which are directly attributable to the offering of a product or service,"^{4/} and equates the terms "incremental cost" and "marginal cost" stating that the two terms may be used synonymously and interchangeably.

MCI disagrees with BellSouth's and Southwestern Bell's position that the marginal investment option of SCIS is the appropriate method for estimating incremental cost, where the cost study is to be used for pricing purposes. Use of the marginal investment option in SCIS will understate, and potentially under-recover, the total cost to the LEC of providing the services which use and benefit from the switching investment. Put simply, if all services provided using the switching investment are priced no lower than the cost produced by SCIS(AVG), the total investment of the switch will be recovered. If all services provided using the switching investment are priced above the cost produced by the marginal investment option of SCIS, but below the cost produced by the average cost option of SCIS, then the total cost of the switch will **not** be recovered. If the total cost of the switch is to be recovered by the LEC, and if some services are priced at or near the cost produced by the marginal investment option of SCIS, then other services will have to be priced higher than the average cost

^{4/} Direct Case of BellSouth at 6.

produced by SCIS to make up the shortfall. This is inequitable, and creates the opportunity for price discrimination among services which use the same facilities and benefit from the same investments made by the LEC.

BellSouth defines a long run cost study as one which employs a term "long enough for the firm to vary items which in the short run are considered fixed, such as plant, equipment, and business commitments,"^{5/} while at the same time claiming that "BellSouth did not identify 'short run' marginal investments."^{6/} BellSouth's own argument, however, contradicts its disavowal of "short run" analysis, and reveals that the marginal mode of SCIS indeed is a short-run estimation of costs.

According to BellSouth, the difference between the marginal and average options of SCIS are that the latter assigns the so-called "getting started"^{7/} cost of the switch to switched usage, while the marginal option does not consider this cost.^{8/} In Bell South's view, this "getting started cost" should be assigned only where anticipated demand will cause exhaust of the switch

^{5/} Id., at 7.

^{6/} Id., at 6.

^{7/} According to BellSouth, this consists largely of the cost of the switch processor. Upon knowledge and belief, MCI states that the getting started cost also includes the cost of engineering, furnishing, and installing the switch, and certain other associated investments, such as test equipment.

^{8/} BellSouth Direct Case at 8, fn. 16.

processor:

Where the marginal run option of SCIS is utilized, and the provisioning of planned product or service demands will not cause the processor to exhaust, the incremental investment associated with the additional demand will be zero. In its most general terms, this is because the additional demand associated with the BSE will not cause any advancement of planned investments to occur, i.e., no further capital expenditure is required as a result of the provisioning of the BSE. However, where processor capacity is expected to exhaust due to anticipated demand, then the additional demand associated with the BSE is viewed as the direct cause of the advancement of the capacity expansion, and the SCIS model calculates the "capacity cost" of the processor.^{2/}

Note that in BellSouth's explanation of the difference between the marginal and average options of SCIS, a subtle shift occurs in the discussion. The company begins by speaking of the "planned product or service demands" -- in other words, the total demand for all products or services provided using the switch. If that total demand will cause the processor to exhaust, then the incremental investment for any additional demand will have an associated incremental investment greater than zero. The same paragraph concludes, however, by stating that only if the additional demand associated with the BSE causes exhaust of the processor should a capacity cost calculation be used.

BellSouth's approach thus fails to recognize the contribution to overall demand caused by the provisioning of a BSE or any other service, and considers in isolation only the demand caused by the provisioning of a single service. Theoretically, any processor is

^{2/} Id. at 7-8, footnote omitted.

subject to exhaust over the long term as demand levels for all switched services increase. As a result, any increase in demand represents a contribution to the total level of demand which will result in switch replacement. This being the case, any service which generates demand for switch processor utilization will advance the need for capacity expansion. It is clear, then, that any demand for switch processor capacity causes switch replacement costs which are not considered under the marginal option of SCIS.

Recalling that a long run incremental analysis should, in BellSouth's words, be "long enough for the firm to vary items which in the short run are considered fixed, such as plant, equipment and business commitments," it is clear that the marginal option of SCIS does not produce a long-run estimate of incremental cost. The approach advocated by BellSouth and Southwestern Bell instead considers processor investment to be fixed, and does not contemplate the replacement of existing switching plant. As such the cost result produced by this approach is an estimate of the short-run variable cost of the demand for the service in question.

The average mode of SCIS does not produce a fully-allocated cost result. Both BellSouth and Southwestern Bell suggest this by referring to the average option as including "allocated shared investment which is not properly assigned to any given service,"^{10/} and as producing a "revenue requirements-type" cost

^{10/} Southwestern Bell Direct Case at 2.

result. A fully allocated cost study attempts to assign all of the costs on the books of the company to specific services. As such, this approach would assign costs which are common to all of the services provided by the company -- e.g., the president's desk -- to individual services.

In addition, the fully allocated approach includes costs which are the result of historical investment decisions and regulatory treatment of those decisions; in other words, it is based on embedded investment. By contrast, the average option of SCIS does not allocate common overheads such as the president's desk to services. Rather, it includes only the investment associated with the actual plant used in the provisioning of a service. The average option of SCIS also does not include embedded or historical investment. Rather, the model estimates only the incremental unit investment associated only with forward-looking investment -- the cost of replacement of capacity with new plant at the best prices obtainable today. BellSouth's and Southwestern Bell's characterization of the average option of SCIS as producing a "revenue requirements" type of cost result is therefore misleading and an attempt to cast this option of SCIS as a version of a fully-allocated costing methodology.

The effect of BellSouth's and Southwestern Bell's use of the marginal option of SCIS is to create a large pool of costs -- the cost of the investment shared by all switched services -- which may

be recovered at the discretion of the telephone company. As noted earlier, if a single service does not recover a portion of the cost of these shared investments, then it is left for other services to do so, if the total cost of the switch is to be recovered. Assuming that the LEC will choose to recover the total costs of the switch in its rates, the inescapable conclusion is that some rates will bear more of the costs of the shared investments than will others.

The LECs' ability to assign these costs at will to different services and different rate elements within services permits it the ability to engage in price discrimination and anti-competitive pricing while still demonstrating that each price charged is "above cost." If, for example, an LEC enhanced service used more of one rate element than the services of its competitors, that rate element could be priced close to the cost produced by the marginal option of SCIS. At the same time, rate elements used more heavily by the LEC's competitors could be left to carry more of the cost of shared investment.

Thus, even though the same rate is charged for each rate element when used in the BOC's enhanced service as is charged when the BOC's competitors use the same rate elements, the competitor may be forced to assume more of the burden of the shared switch investment, and, as a result, may be unable to offer a retail rate for its service which is competitive with that charged by the BOC.

In this way, the use of the marginal investment option of SCIS for pricing of ONA services is inconsistent with the Commission's goals under ONA of fostering the development of a competitive marketplace for enhanced services.

BellSouth argues that "artificial constraints which would be imposed by a requirement to establish the price floor at average costs would chill incentives to innovate."^{11/} According to BellSouth, if the firm expends additional resources to offer a service at a price at which there is no market demand for the service, then the firm is worse off, and would have no incentive to offer the new service. BellSouth's argument misses the mark on at least two counts.

First, BellSouth's own calculation of the difference between the revenues produced if rates were based on costs determined by the average option of SCIS and if rates were based on costs determined by the marginal option of SCIS reveals that the company is better off if rates are based on the average option of SCIS. MCI cannot determine, based on the scant information provided, how BellSouth calculated the alternative rates, nor can MCI determine how BellSouth calculated demand levels at each rate level. Nevertheless, if the calculations are taken at face value, it is clear that, for each service at issue in this filing, more revenue is produced when rates are established at a level equal to the

^{11/} BellSouth Direct Case at 16.

average cost than when rates are established at marginal cost. If the company requires additional revenue as an incentive to innovate, then clearly use of the average option of SCIS provides greater incentives than does use of the marginal option.

Second, it is not only the BOCs which are capable of innovation. If rates resulting from use of the marginal option of SCIS result in anti-competitive pricing for BSAs and BSEs, and if competition in the provision of finished retail services is thereby diminished, the overall pace of innovation in the market for the services in question will be diminished. Even assuming that the use of the marginal option of SCIS as a basis for setting rates maximized incentives for the LEC to innovate -- and the evidence presented by BellSouth certainly indicates that this is not the case -- it does not follow that the market as a whole would be stimulated to the highest level of innovation under such a pricing policy. BellSouth and the other BOCs will have the greatest incentives to innovate not just when they perceive that they will be "better off" if innovative new services are offered, but will likely have even greater incentives to provide innovative services when the pressure of innovative services offered by the competition threatens to reduce the BOCs' market share or market presence.

Finally, the BOC will be "better off" only if the revenues generated by a service are greater than the costs created by the service, properly measured. As shown above, the shared costs of

switching are real costs which are, from a long run incremental perspective, caused by the provision of any switched service. The BOC is not necessarily "better off" if the revenues derived from a service are greater than an improper measure of the costs caused by the service. It is only "better off" to the extent that the total costs of a service -- not just the variable costs -- are less than the revenues produced by the service. The measure of total cost for switched services is produced by the average option of SCIS. This option then is the only basis for a proper determination of whether a BOC is "better off" in offering a new service.

2. and 4. Have carriers selected model offices that are representative of offices that will be used to provide BSEs? More specifically, should LESS and/or LAESS switch costs be included in the development of BSE rates?

The responses to these questions illustrate the significant diversity in the methodologies and assumptions used by the BOCs in their process to develop BSE costs. As the arguments in the direct cases make clear, significant disagreement exists among the BOCs regarding the definition of an economically appropriate costing methodology and the purpose for developing those costs. Inconsistencies also exist in the BOC methods of selecting offices to be studied and the technology mix to be considered. Finally, the arguments of several BOCs in response to these issues make it clear that what is actually being sought is an undefined and unbounded means of developing costs - and ultimately rates - for BSEs. Such "freedom from hard-and-fast costing and pricing

requirements"^{12/} would make meaningful regulation of the BOCs in this market impossible.

The direct cases make it clear that the BOCs disagree on both the definition of "forward-looking" investment and the appropriateness of using embedded investment when conducting cost studies for ONA rate elements. As a result, the assumptions used to develop costs and rates varies by Company. BellSouth, for example, correctly considers only forward-looking investment to be relevant, and includes in its definition only those technologies that are currently being deployed or that will be deployed in the future:

The investment utilized in a long run incremental cost analysis are [sic] limited to those technologies which will be deployed on a forward-looking basis in the long run. Where a BOC has a particular switch technology in its embedded base, but is no longer continuing to deploy that technology, it is excluded from a forward-looking analysis.^{13/}

Bell Atlantic, however, takes a directly opposite approach, arguing that the relevant investments are those actually being used to provide the service, regardless of future deployment plans.^{14/} Southwestern Bell takes a middle ground, stating that the use of embedded investment may be appropriate if that investment will have future usage:

^{12/} NYNEX Direct Case at A-5.

^{13/} BellSouth Direct Case at 30.

^{14/} Bell Atlantic Direct Case at 5.

There can be incremental costs associated with embedded technologies based on forward-looking demand, assuming that the embedded technology remains part of the technology mix.^{15/}

Pacific bases its cost studies on projected future investment, agreeing with Southwestern Bell that embedded investment may have an identifiable incremental cost due to forward-looking demand.^{16/} NYNEX argues that no constraints should be put on the definition of economically relevant investment either across BOCs or across cost studies performed by a given Company. Instead, NYNEX repeats a disturbing theme that recurs throughout its case by asking for "context-specific" selection of investment rather than for a consistently applied standard.^{17/}

The selection of the switching technology mix to be studied also varies among the BOCs, usually as a function of their views on whether embedded investment should be included. Consistent with its view that the relevant investment is represented by forward-looking deployment plans, BellSouth states that it did not include analog switching investment in its cost studies:

Because BellSouth is deploying only digital switch investment on a going-forward basis, only digital switch investment was included. As a consequence, the incremental investment is not representative of the embedded investment.^{18/}

^{15/} Direct Case of Southwestern Bell at 5-6.

^{16/} Direct Case of Pacific at 5.

^{17/} Direct Case of NYNEX at A-5.

^{18/} Direct Case of BellSouth at 24-25.

In the responses to this issue, no BOC indicated plans to deploy analog switches in the future. BSE costs as developed by a number of BOCs reportedly do include a weighting for analog switching technologies, however, based on the unsupported theory that future demand associated with embedded investment creates a forward-looking incremental cost. For example, Ameritech's studies are based on a model office database that

is representative of the offices that will be used to provide BSEs. This database contains virtually all of the 5ESS, DMS100 and 100/200, and 1AESS host/remote switching offices in place in the Ameritech region at the time the model offices were developed.^{19/}

NYNEX also describes its indefensible "context-specific" technology mix decision to include the investment associated with both 1ESS and 1AESS switching in its studies.^{20/} Taking a different approach, US West also argues that it is correct to include the costs associated with a 1AESS switch when developing BSE costs, but - appropriately - only "in those cases where a particular BSE was only available from 1AESS offices," and - clearly inappropriately - "where particular cost studies were not updated prior to the filing of ONA tariffs."^{21/}

The determination of which end offices to study was treated with similar inconsistency by the BOCs. Bell Atlantic states that it utilized a statistical sample of the offices that it argues

^{19/} Direct Case of Ameritech at 2.

^{20/} Direct Case of NYNEX at A-4.

^{21/} Direct Case of US West at 5.

contain relevant investment.^{22/} At the other end of the spectrum, Nevada Bell avoided sampling by including the data from each of its switching offices and remotes.^{23/} A diverse array of intermediate approaches were utilized by other companies. Pacific states that it did not conduct statistical sampling of offices, but instead developed a model office based on the characteristics of those switches for which it had collected traffic data.^{24/} US West and BellSouth based their studies on model office characteristics derived as a weighted average of the switches that they considered to represent relevant investment.^{25/} Southwestern Bell chose not to describe its methodology for office selection, instead simply asking that the Commission accept on faith that the Company had used "appropriate assumptions and representative offices."^{26/}

As described above, significant diversity and inconsistency is demonstrated by the BOCs in their decisions regarding the use of forward-looking vs. embedded investment, their selection of the appropriate switching technology mix to be studied, and their methodology for determining which end offices should be used to create a representative model office. BSE costs, as developed, are

^{22/} Direct Case of Bell Atlantic at 2.

^{23/} Direct Case of Nevada Bell at 2.

^{24/} Direct Case of Pacific at 2.

^{25/} Direct Case of US West at 2-3, and Direct Case of BellSouth at 24-25.

^{26/} Direct Case of Southwestern Bell at 3-4.

clearly not comparable across BOCs, nor does the methodology used by any BOC conform to generally accepted principles of incremental cost development. The inconsistency in the assumptions and methodologies of the BOCs, as described in their responses to this issue in their Direct Cases, is the result of disagreements among the Companies that apparently exist on issues as fundamental as the purpose for conducting cost analysis to support the rates for BSEs. BellSouth, for example, presents the conceptually correct argument that the purpose for conducting incremental cost analysis of ONA rate elements is to determine a price floor for ratemaking purposes:

"The use of embedded investment and embedded costs ('embedded' in this sense means technology which is not forward-looking) is not appropriate in identifying the cost floor...As BellSouth has reiterated throughout this Direct Case, it is economically incorrect to identify a price floor by reference to costs which a new service does not cause" (emphasis added, footnote inserted parenthetically into text).^{27/}

Ameritech, however, disagrees that the purpose of the cost analysis is to create a price floor, instead arguing that rates should be set according to fully distributed principles:

"In the Case of ONA, the question posed was: 'What costs are appropriate to use to allocate or unbundle a revenue requirement?' The question was not: 'What is the price floor for the BSEs?' Under these circumstances and particularly given the Companies' commitment to price BSEs in accordance with fully distributed costing principles, the inclusion of analog technology in the direct cost study was appropriate."^{28/}

Whatever the source of the BOCs' fundamental confusion on this

^{27/} Direct Case of BellSouth at 31.

^{28/} Direct Case of Ameritech at 5.

issue, it is clear that the cost support, and its justification in the direct cases, includes the broadest possible spectrum of assumptions and methodologies. If the Commission accepts the cost support as presented, it will effectively be granting the widest possible latitude to the BOCs when making decisions regarding assumptions and methodologies that are fundamental to the cost studies performed and the results obtained. Such latitude, especially combined with the substantial flexibility built into the costing processes utilizing the SCIS and SCM models^{29/}, effectively grants the BOCs a costing - and therefore ratemaking - flexibility that can easily be used to thwart the Commission's ONA objectives.

In their Direct Case responses, a number of BOCs overtly state their objective to have the Commission approve an ineffective costing standard, or, preferably, no standard at all. Southwestern Bell, for example, asks that no standard be set for the type of investment (embedded vs. forward looking) or technology mix used in BOC cost studies, contending that "the Commission should not require that any given technology be either excluded or included in the determination of the cost of a service."^{30/} NYNEX takes a much bolder step, advocating the elimination of any restraints on how the BOCs choose to calculate relevant "cost," including the ability for the BOC to change assumptions and methodologies, on a

^{29/} The sources and degree of this flexibility will be described in Section III following.

^{30/} Direct Case of Southwestern Bell at 5.

study by study basis, in order to meet its ratemaking objectives:

"More important, however, it [use of embedded technology] illustrates the need for freedom from hard-and-fast costing and pricing requirements in this and other contexts...Efficient pricing is predicated on the flexibility to consider in context such factors as technology mix, market conditions, and forecast demand, and the appropriate weight to be given to each such relevant factor" (emphasis added).^{31/}

Ameritech, however, apparently disagrees with the degree of flexibility sought by NYNEX: "It would be inappropriate to manipulate cost assumption decisions to achieve a particular answer. To do so produces uneconomic results and uneconomic decisions."^{32/} If the Commission does elect to allow such "freedom" for the BOCs, it must first come to grips with the fact that it will be effectively abandoning regulation of the BOCs in this market. The "efficient pricing" resulting from such "in context" costing will prove to be the pricing that can most efficiently discriminate against competitors and prevent entry into the enhanced services markets. NYNEX continues: "The NTCs respectfully submit that there is only one constraint on costing and pricing that should be applied in all contexts. That constraint is a requirement to demonstrate that rates are equal to

^{31/} Direct Case of NYNEX at A-5.

^{32/} Direct Case of the Ameritech Operating Companies at 6. Ameritech does go on at page 6 to request a degree of flexibility regarding investment selection similar to that requested by Southwestern Bell, concluding that: "therefore, there is no direct relationship between the four pricing goals of ONA and the assumption to include 1AESS investment." If the Commission desires to have its pricing goals met and to effectively regulate the BOC rates for BSEs, it must deny such "costing flexibility" requests and require that standards be met that are consistent across BOCs and across each cost study performed by a single BOC.